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BEFORE THE SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

In Re Appeal of the Remington Ranch Plat by  
Marshland Flood Control District, by and through its  
Three Elected Commissioners, Don Bailey, Marv  
Thomas and Tim Stocker,

Appellant.

No. 19-104881 PSD/SPA

APPELLANT MARSHLAND FLOOD  
CONTROL DISTRICT'S APPEAL TO  
COUNTY COUNCIL

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**INTRODUCTION**

Appellant, Marshland Flood Control District ("Marshland") is a Special Purpose District, a municipal corporation, operating under RCW Chs. 86.09 and 85.38. It is an agricultural district comprised of over 6,000 acres east of south Everett and the unincorporated area of Snohomish County east of Mill Creek. Marshland is not anti-development. Since getting notice AFTER the hearing for Remington Ranch, Marshland has worked closely and continuously with the Developer and its consultants to resolve issues. But mitigation is critical and that requires time. Although early notice is provided for by County Code language, Planning and Development Services (PDS) unintentionally (but negligently) failed to give legally required jurisdictional notice in this case.

Development uphill from Marshland in the 1960's and 1970's required Marshland – which

**ORIGINAL**

1 previously had no sediment ponds – to create six (6) of those ponds. In fact, Marshland drainage  
2 issues are what led the County to create Surface Water Management (SWM) in the first place!  
3 Marshland has had Interlocal Agreements (ILAs) with SWM for over 35 years to help defray the  
4 added costs of drainage and siltation which occur as a result of uphill development. But 50 years later  
5 the most easily developed land is gone. The remaining undeveloped land is on steeper slopes, and in  
6 wetter areas with more creeks – Critical Areas. *Moreover, while the Best Available Science (BAS) has*  
7 *made assessment of new proposals better, earlier developments had lesser standards and they drain*  
8 *into the new development proposals, making the prospect of mitigation failure that much more critical*  
9 *to Marshland.*

10 For example, the original design standard in 1975 was a 25-year storm. Now it is the  
11 “consecutive 50-year storm” which means two 50-year storms back-to-back within 24-48 hours.  
12 When a storm exceeds the old or new design levels, retention, detention, siltation and water quality  
13 ponds and vaults are filled. Then the water runs over the ponds and vaults un-retained, un-detained,  
14 un-treated and carrying sediment – into Marshland. Old culverts become too small and ditches fill  
15 quickly. Marshland’s Pump Plant must run more often on bigger pumps, increasing Marshland’s  
16 power bills. For these reasons, there are three main issues Marshland needs the time authorized by  
17 Code for advance notice in order to negotiate with developers.

18 First, review of drainage plans and proposed facilities is needed in order to assure compliance  
19 with codes written generically for all developments, but not necessarily for those developments on  
20 steeper, wetter critical areas. Marshland gets assistance with this review from engineers and  
21 hydrologists with the Snohomish Conservation District. This review is being pursued with the  
22 cooperation of Remington Ranch as this Appeal is taken.

1 Second, Marshland seeks assurance that proposed drainage and sediment facilities will be  
2 maintained. After developments are sold out, Homeowners Associations (HOAs) are handed this  
3 responsibility, but most do not do regular (at least annual) maintenance to remove silt and debris. If  
4 maintenance does not occur, facilities do not work as designed. Then SWM needs to step in --  
5 immediately -- because otherwise the storm standard is not met and Marshland is inundated. This  
6 requires a Drainage Facility Covenant with some teeth in it. Remington Ranch does not object to this.  
7 But negotiating language requires PDS and Prosecutor cooperation, which is being pursued  
8 contemporaneously and very actively – with reason for cautious optimism.

9 Third, SWM has developed many projects and hired many employees over time. Historically,  
10 this led SWM to occasionally seek reduction of its responsibility to Marshland for extra costs caused  
11 by uphill development; extra costs for pond, ditch and flood canal cleaning, electricity charges for  
12 pumping and Pump Plant operating expenses. As recently as September 2018 SWM advised  
13 Marshland that, without a fee increase authorized by this County Council, it could not pay Marshland  
14 anything in 2019. Your undersigned Commissioners came to this County Council and the Executive  
15 and got that resolved. But times and County Council Members and Executives change. If elimination  
16 of SWM payments to Marshland should occur, Marshland needs to be able to directly assess  
17 developed areas for water and sediment Marshland receives. Therefore, Marshland has, for years,  
18 negotiated “Conditional Assessment” language which is put into Plat Covenants, Conditions and  
19 Restrictions (CC&Rs) from developers. Remington Ranch has indicated it has no problem with this  
20 and is drafting such a covenant as this appeal proceeds.

21 In short, all three issues require Marshland to work with developers in order to mitigate  
22 adverse impacts to Marshland. For Marshland to do that, it must first and foremost be given notice.

1 Lack of Code-required notice in this case did not allow Marshland the opportunity to resolve these  
2 three issues and made this Appeal necessary. Marshland requests that this County Council REMAND  
3 this case to the Hearing Examiner to allow these discussions to continue. Marshland also requests that  
4 this Council encourage PDS and the Prosecutor's office to cooperate in developing a Drainage  
5 Facilities Covenant with adequate maintenance obligations. *It is possible that these issues could be*  
6 *resolved by a stipulation before the Hearing Examiner prior to supplementary proceedings.*

### 7 STATEMENT OF THE FACTS

8 Pursuant to County Code, as an adjoining local governmental agency, Marshland is supposed  
9 to receive mailed notice, *and copies*, of any preliminary subdivision applications in its watershed --  
10 which will drain into Marshland's flood plain. *See* SCC 30.70.045(4)(a) and (d) and, most especially,  
11 SCC 30.41A.040(3)(e). PDS gave no such notice at all. *That is a violation of County Code.*

12 Instead, the first notice of Remington Ranch from PDS to Marshland came in a July 3, 2019  
13 email from Rebecca Samy of PDS. *See* Exhibit A. The email indicated that Ms. Samy "was recently  
14 made aware that the proposed project [Remington Ranch] is located within the Marshland Flood  
15 Control District." How recently the email did not say. Nor did it say how long after the application  
16 was filed – when the notice should have been given pursuant to SCC 30.41A.040(3)(e).

17 Marshland responded by email on July 17, 2019, pointing out that "In the past all drainage  
18 plans were supplied directly and developers were required to get Marshland's approval directly. This  
19 practice should be followed here as in the past." *See* Exhibit B. That same day Ms. Samy replied and  
20 suggested using a link she sent to view plans online. *See* Exhibit C. Marshland pulled up plans online  
21 and they were on the Agenda at the next Commissioners meeting held August 12, 2019. Exh B, *supra*.

22 Marshland mailed a letter dated August 14, 2019 to Ms. Samy, as provided for by the County  
23

1 website, asking for “Party of Record” status. *See* SCC 30.91P.110. In addition, the letter to Ms. Samy  
2 was emailed to Remington Ranch officials and consultants. *See* Exhibit D. Marshland’s letterhead  
3 contained, in large, bold font, the address Marshland has had continuously since the 1950’s:

4 P.O. Box 85  
5 Snohomish, Washington

6 The letterhead also included Marshland’s zip code and email address, both of which have been added  
7 during the over 60 years since P.O. Box 85 was first assigned by the U.S. Postal Service. Moreover,  
8 because Marshland received no response, it sent a second letter on September 11, 2019, also on  
9 letterhead, requesting confirmation of the County and Developer’s receipt of the first letter. The letter  
10 said “Early communication in the process is probably the best way to resolve concerns and avoid  
11 opposition, if possible.” *See* Exhibit E. To his credit, Mr. Mirante of Remington Ranch replied that  
12 same day and indicated “we look forward to working together.” *See* Exhibit F. Ms. Samy also  
13 confirmed receipt the next day (9/11/19). *See* Exhibit G.

14 After again hearing nothing, Marshland emailed the County and Developer on October 11,  
15 2019 to encourage a response before the Commissioners meeting on October 14, 2019. *See* Exhibit  
16 H. Ms. Samy replied on October 14, 2019, the day of the Commissioners meeting, and advised that  
17 “The applicant resubmitted the project on August 26 and it is under review.” *See* Exhibit I.  
18 Marshland’s first letter was dated August 14, 2019, Exh D, *supra*, but less than 2 weeks later, the  
19 project was resubmitted and, despite 4 intervening contacts, this is the first notice – 2 months later –  
20 that the project was resubmitted!

21 The following day, Mr. Mirante emailed Marshland concerning 3 specific points. First, he had  
22 met with Marshland in the past (regarding other projects). Second, he requested a copy of Marshland’s

1 “Conditional Assessment” covenant. And third, he sent the County’s standard Drainage Facility  
2 Maintenance Covenant which applies when the Developer turns over maintenance to a Homeowner’s  
3 Association (HOA). *See* Exhibit J. This appeared to be a positive step.

4 On October 16, 2019, Marshland replied by re-sending 3 sample “Conditional Assessment”  
5 covenants previously sent to Mr. Mirante in 2014 and 2015. Appreciation was also expressed for a  
6 copy of the Drainage Facility Maintenance Covenant. *See* Exh. K. Then, one day later, on October  
7 17, Marshland sent Mr. Mirante (copied to everyone else) a request for a WORD copy of the Drainage  
8 Covenant in order to make suggestions which would strengthen it against HOA lapses, should they  
9 occur. *See* Exhibit L. Mr. Mirante did so the following day. *See* Exhibit M. A week later, Marshland  
10 apologized for delay in editing the Drainage Facility Covenant, but explained that “budget season”  
11 was busy and asked for continued contact on the “Conditional Assessment” covenant. *See* Exhibit N.  
12 Finally, on December 20, 2019 Marshland – which had heard nothing from the County or the  
13 Developer – emailed a County Prosecutor (with copies to PDS, the Remington Ranch group and the  
14 Brasswood group) an edited version of the Drainage Facility Maintenance Covenant. *See* Exhibit O.

15 It is this last communication, Exh O, *supra*, which led to discovery that Marshland was never  
16 given notice of the Remington Ranch (or Brasswood) hearings. An email string, attached as Exhibit  
17 P, documents that, when PDS mailed notice of Remington Ranch’s hearing scheduled for December  
18 18, 2019, the notice was sent to an address which Marshland has never had! Instead, PDS used an  
19 address for an office which Marshland’s attorney closed seven (7) years earlier in 2012.

20 In short, despite the County Code requirement to give Marshland individual mailed notice of  
21 the Remington hearing, Marshland received no notice; ***a second violation of County Code.***

22 If Marshland had been given proper legal notice, Marshland would have had at least 30 days  
23

1 to reinitiate contact and meet with Remington Ranch officials, with or without PDS, in order to resolve  
2 Marshland's concerns about drainage related issues. It is inexplicable that, with all the contacts  
3 previously had between Marshland, PDS and the Developer, no one even questioned why Marshland  
4 did not appear at the hearing.

5 Finally, the drainage related issues of concern to Marshland are also vital to the County.  
6 SWM, with which Marshland has had ILAs for over 35 years, pays Marshland for increases in uphill  
7 drainage costs as a result of development above the Marshland floodplain. For example, in 2017,  
8 SWM paid Marshland \$63,270. In 2018, SWM paid Marshland \$73,740. And in 2019, SWM paid  
9 Marshland \$77,844. Therefore, the County also has a significant interest in Marshland's drainage  
10 issues.

### 11

12 **SERVICE.** The exhibition or delivery of a writ, *notice*, injunction, etc., by an  
13 authorized person, *to a person who is thereby officially notified* of some action or  
14 proceeding in which he is concerned, and is thereby advised or warned of some action  
or step which he is commanded to take or to forbear.

15 **JURISDICTIONAL FACTS.** Those matters of fact which must exist before  
16 the court can properly take jurisdiction of the particular case, as, the *defendant has*  
*been properly served with process, ...*

17 BLACK'S LAW DICTIONARY (West 4<sup>th</sup> ed. 1968) italics supplied.

18 1. **Exceeded Jurisdiction.** Through no fault of his own, the Hearing Examiner exceeded  
19 his jurisdiction because PDS did not give legally required jurisdictional notice to Marshland, a local  
20 adjoining governmental agency. That proper notice is necessary is demonstrated from the decision at  
21 page 5 where the Hearing Examiner knew he needed to make, and did make, an express finding that  
22 "PDS gave public notice" based on Exhibits 2 and 3 of the erroneous record PDS presented.





1 points out that local ordinances may require notice beyond that of RCW 58.17.090. Indeed,  
2 Snohomish County ordinances addressing notice are full of mandatory “shall” language. General  
3 notice requirements in SCC 30.70.045, for example, indicate that “the applicant *shall* post two or  
4 more signs” in subsection (1), that “the department *shall* publish” in the newspaper in subsection (2)  
5 and that “the department *shall* mail notice” in subsection (3). *See also* SCC 30.70.050. Even more to  
6 the point, however, SCC 30.41A.040 has “special notice” requirements for subdivisions (Plats). In  
7 SCC 30.41A.040(3) the Code provides that “In addition to the notice required by Chapter 30.70SCC,  
8 the department *shall* distribute copies of the preliminary subdivision application to ... (e) Any other  
9 federal, state or local agencies as may be relevant.”<sup>1</sup>

10 As an aside, plat Decision Criteria, set forth in SCC 30.41A.100 make it clear in subsection  
11 (1) that public health, safety and general welfare, as well as drainage ways, must pass muster.  
12 Subsection (2) further provides that both (a) public health, safety and general welfare regarding  
13 drainage ways AND (b) “conformance to all applicable codes” are required. This means that *codes*  
14 *are the minimum threshold*. It recognizes that even if the Codes are met, public health, safety and  
15 welfare are not guaranteed. In a plat such as Remington Ranch, adjoining agricultural lands (SCC Ch.  
16 30.41A.100(5) and 30.32B), where the decision itself documents that Critical Area (SCC 30.41A.250,  
17 30.28.050 and 30.62.200-250), Drainage (SCC 30.41A.220 and Chapter 30.63A), Grading (SCC Ch.  
18 30.63.A), Flood Hazard Area (SCC 30.41A.110 and Chapter 30.65) and Shoreline (SCC Ch. 30.44)  
19 issues are involved, code requirements converge. In such cases, public health, safety and welfare must

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21 <sup>1</sup> SCC 30.70.070 may be cited as a defense, but it is not. It states it only applies to “subtitle” 30.7, not “subtitle”  
22 30.4. It also does not apply to governmental agencies, but only by its own terms to “each taxpayer of record,” and  
“any person” failing to receive mailed notice.

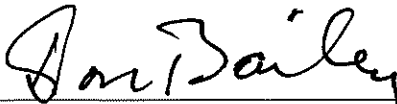
1 be the ultimate requirement.<sup>2</sup> This is very likely NOT to occur if proper notice is not given to a local  
2 governmental body like Marshland, which is in the floodplain where drainage and silt will end up.

3 **CONCLUSION**

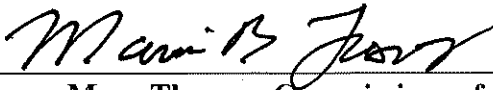
4 PDS failed to provide Marshland with Code required notice as an adjoining governmental  
5 agency – despite a specific request to be a “Party of Record.” This legal error denied the Hearing  
6 Examiner jurisdiction and, just as importantly, denied Marshland due process. For all the above  
7 reasons, Marshland’s Commissioners respectfully request this matter be REMANDED for further  
8 proceedings.

9 RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of January, 2020.

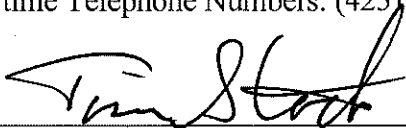
10 **APPELLANT – Marshland Flood Control District**

11 

12 \_\_\_\_\_  
13 Name: **Don Bailey, Chairperson for Marshland**  
14 Address: 12711 Springhetti Road, Snohomish WA 98296  
15 Daytime Telephone Number: (360) 568-8826

16 

17 \_\_\_\_\_  
18 Name: **Marv Thomas, Commissioner for Marshland**  
19 Address: 7428 Lowell-Larimer Road, Snohomish WA 98296  
20 Daytime Telephone Numbers: (425) 308-9656

21 

22 \_\_\_\_\_  
23 Name: **Tim Stocker, Commissioner for Marshland**  
24 Address: 11805 Springhetti Road, Snohomish WA 98296  
Daytime Telephone Number: (425) 345-9849

25 <sup>2</sup> See also WASHINGTON REAL PROPERTY DESKBOOK SERIES: VOL 5 LAND USE, PLANNING (Wash St.  
26 Bar. Assoc. 4<sup>th</sup> ed. 2012 & Supp 2016) Ch. 4 “Resource Lands – Designation and Conservation,” and Ch. 5 “Critical  
27 Areas.” And see SCC 30.41A.100(5) stating that “resource lands chapters shall control.”

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Agent or Representative's Signature



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Gary W. Brandstetter, WSBA # 7461  
Attorney for Marshland Flood Control District  
5002 83<sup>rd</sup> Avenue SE  
Snohomish WA 98290  
425-760-4262

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Gary Brandstetter <garywbrandstetter@gmail.com>

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**Remington Ranch 19-104881 PSD/SPA/SHOR**

1 message

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**Samy, Rebecca** <Rebecca.Samy@co.snohomish.wa.us>  
To: Gary Brandstetter <garywbrandstetter@gmail.com>

Wed, Jul 3, 2019 at 2:48 PM

Hello Gary,

I was recently made aware that the proposed project is located within the Marshland Flood Control District. Attached you will find the link to the postcard notice <https://www.snoco.org/app/pds/Postcard/Default.aspx>

Once there, click the advance search and then type in the name Remington Ranch. This will bring up all the documents including the drainage plans and reports.

Sincerely,

**Rebecca Samy** | *Senior Planner, CFM*

Snohomish County Planning and Development Services  
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201  
425-262-2283 | rebecca.samy@snoco.org

**\*\*Note:** I am out of the office at 3:00 p.m. If you need assistance after 3:00 p.m. please call 425-388-3311\*\*

NOTICE: All emails, and attachments, sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56)

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Gary Brandstetter <garywbrandstetter@gmail.com>

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**Remington Ranch 19-104881 PSD/SPA/SHOR**

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**Gary Brandstetter** <garywbrandstetter@gmail.com>  
To: "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>

Wed, Jul 17, 2019 at 11:16 AM

Ms. Samy:

Thank you for your 7/3/19 email notice re Remington Ranch. The Marshland Commissioners indicated there are 1 or 2 more developments proposed above the District. In the past all drainage plans were supplied directly and developers were required to get Marshland's approval directly. This practice should be followed here as in the past. Please advise. Marshland's next meeting is August 12. I will check back before then.

Gary Brandstetter  
[Quoted text hidden]

--  
**Gary W. Brandstetter**

Attorney at Law  
5002 83rd Avenue SE, Snohomish WA 98290 (425) 760-4262 garywbrandstetter@gmail.com

Privileged or confidential information may be contained in this message. If you are not the intended recipient, you may not copy or communicate this message to anyone. If you received this message in error, please destroy this message and notify the sender by reply email. Thank you.



Gary Brandstetter <garywbrandstetter@gmail.co

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## Remington Ranch 19-104881 PSD/SPA/SHOR

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**Samy, Rebecca** <Rebecca.Samy@co.snohomish.wa.us>  
To: Gary Brandstetter <garywbrandstetter@gmail.com>

Wed, Jul 17, 2019 at 11:47 AM

Hi Gary,

I was hoping that the link which I provided, that includes the drainage plans will work for the district as we no longer receive paper plans from the applicants. The form which was supplied to you is a comment form and the place for the district to provide their comments/concerns/etc.

Could you clarify what you need advisement on? Is it process? Is it how to contact the developer?

Happy to help.

[Quoted text hidden]

# MARSHLAND FLOOD CONTROL DISTRICT

P.O. Box 85 · Snohomish, WA 98291-0085  
360-568-6044 · [marshlandfloodcontrol@gmail.com](mailto:marshlandfloodcontrol@gmail.com)

August 14, 2019

## PDS

Attn: Rebecca Samy  
3000 Rockefeller M/S 604  
Everett WA 98201

### Re: 19-104881-000-00-PSD Remington Ranch

Dear Ms. Samy:

Please be advised that Marshland Flood Control District requests status as a "Party of Record" regarding the development proposal entitled Remington Ranch.

By way of initial comments, Marshland will be most interested in drainage plans. They have been reviewed online and will be examined more closely when time permits. One concern which the Marshland Commissioners raised immediately was the proposal to turn over operations and maintenance to the Homeowners Association. This has not been an effective strategy in many places throughout the county. In particular in this area, the Commissioners advise that the Polygon Highlands project has recently been, and currently may be, maintained by County crews because the HOA has not performed operation and maintenance effectively, if at all.

Further, Marshland has historically resisted, if not opposed, developments unless a covenant in favor of Marshland is placed in the recorded documents approving the development. Marshland ends up handling the drainage regardless of mitigation and this fact needs to be recognized.

Yours Very Truly,



Gary W. Brandstetter  
Marshland Secretary/Manager and Legal Counsel

C: Marshland Commissioners  
Pacific Ridge – DRH, LLC at [JVMirante@pacifiridgehomes.com](mailto:JVMirante@pacifiridgehomes.com)  
David Paterson, Deed Paterson Investments at [DPATERS4@yahoo.com](mailto:DPATERS4@yahoo.com)  
Matt Hough, PD, CPH Consultants at [matt@cphconsultants.com](mailto:matt@cphconsultants.com)

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# **MARSHLAND FLOOD CONTROL DISTRICT**

P.O. Box 85 · Snohomish, WA 98291-0085  
360-568-6044 · [marshlandfloodcontrol@gmail.com](mailto:marshlandfloodcontrol@gmail.com)

September 11, 2019

## **PDS**

Attn: Rebecca Samy  
3000 Rockefeller M/S 604  
Everett WA 98201

**Re: 19-104881-000-00-PSD Remington Ranch**

Dear Ms. Samy:

I have heard nothing since my letter to you of August 14, 2019. Please confirm that you received the letter, a copy of which is attached. I would also appreciate a confirmation receipt from Pacific Ridge, Paterson Investments and CPH Consultants. Early communication in the process is probably the best way to resolve concerns and avoid opposition, if possible. Thank you.

Yours Very Truly,



Gary W. Brandstetter  
Marshland Secretary/Manager and Legal Counsel (WSBA # 7461)

*Attachment: 8/14/19 Letter*

C: Marshland Commissioners  
Pacific Ridge – DRH, LLC at [JVMirante@pacificridgehomes.com](mailto:JVMirante@pacificridgehomes.com)  
David Paterson, Deed Paterson Investments at [DPATERS4@yahoo.com](mailto:DPATERS4@yahoo.com)  
Matt Hough, PD, CPH Consultants at [matt@cphconsultants.com](mailto:matt@cphconsultants.com)



F

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**Letter to Ms. Samy re Remington Ranch**

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John Vincent Mirante <JVMirante@drhorton.com>

Wed, Sep 11, 2019 at 1:54 PM

To: Marshland Flood Control <marshlandfloodcontrol@gmail.com>

Cc: "matt@cphconsultants.com" <matt@cphconsultants.com>, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, Duana Kolouskova <Kolouskova@jmmlaw.com>

Mr. Brandstetter, I can tell you that we are in receipt of your letter. We will be consulting with council in moving forward. Thank you very much for your follow up, and we look forward to working together.

**JOHN MIRANTE**

Entitlement Manager of Land Development

Pacific Ridge Homes | A D.R. Horton Company

17921 Bothell-Everett Hwy., Suite 100, Bothell, WA 98012

o: 425-939-1186 m: 206-619-4009

America's #1 Home Builder Since 2002 | [pacificridgehomes.com](http://pacificridgehomes.com)



[Quoted text hidden]



Marshland Flood Control <marshlandfloodcontrol@gmail.com>

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## Letter to Ms. Samy re Remington Ranch

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**Samy, Rebecca** <Rebecca.Samy@co.snohomish.wa.us>

Thu, Sep 12, 2019 at 7:38 AM

To: Marshland Flood Control <marshlandfloodcontrol@gmail.com>, "JVMirante@pacificridgehomes.com" <JVMirante@pacificridgehomes.com>, "DPATERS4@yahoo.com" <DPATERS4@yahoo.com>, "matt@cphconsultants.com" <matt@cphconsultants.com>

Hello Gary,

PDS did receive your letter and it was passed along to the applicants for review. Typically the county does not respond to each comment but does include them as part of the record and forwards them along to the applicant to address.

Sincerely,

**Rebecca Samy** | *Senior Planner, CFM*

Snohomish County Planning and Development Services

3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

425-262-2283 | rebecca.samy@snoco.org

**\*\*Note:** I am out of the office at 3:00 p.m. If you need assistance after 3:00 p.m. please call 425-388-3311\*\*

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**From:** Marshland Flood Control [mailto:marshlandfloodcontrol@gmail.com]

**Sent:** Wednesday, September 11, 2019 1:43 PM

**To:** Samy, Rebecca <Rebecca.Samy@co.snohomish.wa.us>; JVMirante@pacificridgehomes.com; DPATERS4@yahoo.com; matt@cphconsultants.com

**Subject:** Letter to Ms. Samy re Remington Ranch



Marshland Flood Control <marshlandfloodcontrol@gmail.com>

H

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## Remington Ranch

1 message

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**Marshland Flood Control** <marshlandfloodcontrol@gmail.com>

Fri, Oct 11, 2019 at 5:08 PM

To: "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, JVMirante@pacificridgehomes.com, DPATERS4@yahoo.com, matt@cphconsultants.com

I heard from Ms. Samy and Mr. Mirante last month, but nothing since. The Marshland Commissioners meet at 7 p.m. Monday 10/14/2019 and I would like to report any progress. Please advise. Thank you.

Gary W. Brandstetter  
Secretary/Manager and Legal Counsel

**Marshland Flood Control District**

P.O. Box 85  
Snohomish WA 98291-0085  
360-568-6044  
marshlandfloodcontrol@gmail.com

I



Marshland Flood Control <marshlandfloodcontrol@gmail.com>

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## Remington Ranch

2 messages

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**Marshland Flood Control** <marshlandfloodcontrol@gmail.com>

Fri, Oct 11, 2019 at 5:08 PM

To: "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, JVMirante@pacificridgehomes.com, DPATERS4@yahoo.com, matt@cphconsultants.com

I heard from Ms. Samy and Mr. Mirante last month, but nothing since. The Marshland Commissioners meet at 7 p.m. Monday 10/14/2019 and I would like to report any progress. Please advise. Thank you.

Gary W. Brandstetter  
Secretary/Manager and Legal Counsel

**Marshland Flood Control District**

P.O. Box 85  
Snohomish WA 98291-0085  
360-568-6044  
marshlandfloodcontrol@gmail.com

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**Samy, Rebecca** <Rebecca.Samy@co.snohomish.wa.us>

Mon, Oct 14, 2019 at 8:35 AM

To: Marshland Flood Control <marshlandfloodcontrol@gmail.com>, "JVMirante@pacificridgehomes.com" <JVMirante@pacificridgehomes.com>, "DPATERS4@yahoo.com" <DPATERS4@yahoo.com>, "matt@cphconsultants.com" <matt@cphconsultants.com>

Hello Gary,

The applicant resubmitted the project on August 26 and it is under review. I am working to schedule a hearing and as a party of record you will be notified of the hearing date and time.

Sincerely,

**Rebecca Samy** | *Senior Planner, CFM*

Snohomish County Planning and Development Services

3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

425-262-2283 | rebecca.samy@snoco.org

\*\*Note: I am out of the office at 3:00 p.m. If you need assistance after 3:00 p.m. please call 425-388-3311\*\*

Remington Ranch

John Vincent Mirante <JVMirante@drhorton.com>
To: Marshland Flood Control <marshlandfloodcontrol@gmail.com>
Cc: "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>

Tue, Oct 15, 2019 at 6:50 AM

Good morning Mr. Brandstetter. If I remember correctly I recall meeting you a few years back when we had this property under feasibility the first time. I believe you were at the Board meeting I attended to discuss this project. Well here we are again. We are in receipt of your letter and we understand you have been reviewing our plans and reports. In your letter you reference a "covenant." Do you have a draft of the covenant that you would like executed? It would be helpful to understand specifically what you have in mind.

Your letter also refers to the County taking over maintenance of the drainage system. While I cannot speak for the County, typically it is the HOA's responsibility to administer and perform this maintenance. There is also a "Drainage Facility Maintenance Easement" placed over the Site, allowing the County to maintain the system should the HOA not adequately perform their duties. It reads as follows:

DRAINAGE FACILITY MAINTENANCE COVENANT

We, the owners and contract purchasers of the lands herein platted (Grantor), agree that the obligations of Grantor shall inure to the benefit of and be binding upon us and our heirs, successors, and assigns. Grantor agrees that this covenant touches and concerns the land described herein and shall run with the land.

Grantor by execution of this covenant acknowledges that the benefits of this covenant inure to Grantor, downstream property owners, and the general public, and that Snohomish County (County) as third-party beneficiary of this covenant has the right, but not the obligation, to enforce this covenant on behalf of downstream property owners and the general public. County requires this covenant in order to protect private and public property, private and public drainage infrastructure, and natural resources of downstream property owners and the general public.

Grantor, in consideration of the approval of this subdivision, hereby covenants to perform regular maintenance upon the drainage facilities installed, or to be installed, upon Grantor's property. Regular maintenance shall include, at a minimum, annual inspection and cleaning of debris and silt from the storm water drainage system. As applicable, the system shall include the storm water conveyance system pipes, ditches, swales, and catch basins, storm water flow regulation system detention ponds, vaults, pipes, retention ponds, flow regulation and control structures, infiltration systems and water quality control system.

Handwritten signature and notes in the bottom right corner of the document.

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**Remington Ranch; Marshland Covenants**

1 message

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**Marshland Flood Control** <marshlandfloodcontrol@gmail.com>Wed, Oct 16, 2019 at 11:07  
AM

To: JVMirante@pacificridgehomes.com  
Cc: matt@cphconsultants.com, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, kolouskova@jmmlaw.com  
Bcc: Don Bailey <donbailey54@gmail.com>, marv.t@topsoilsw.com, timgs57@hotmail.com

Mr. Mirante:

Thank you for your email Tuesday morning. I heard from Ms. Samy 10/14/19, but was concerned that she advised for the first time that your proposal had been "resubmitted" on August 26 -- almost 2 weeks after I first wrote and email on August 14.


Regardless, I can respond to your email now and copy all those you copied on your 9/11/19 email to me in order, hopefully, to assure good communication with all concerned. You are correct, too, we have met before. Attached are sample of covenants I sent you in 2014 and 2015, signed by prior developments uphill from Marshland. If you want some additional background, let me know.

As far as the Covenant you sent, I will study it and pass it on to the Commissioners. It sounds, from your description, as if it is a step in the right direction. The question is how smooth will the County's maintenance be implemented in the event of problems with the HOA? This is a major concern because water and silt run downhill -- to Marshland.

Thank you again for your email.

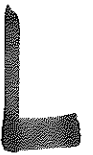
Gary W. Brandstetter  
Secretary/Manager and Legal Counsel  
**Marshland Flood Control District**  
P.O. Box 85  
Snohomish WA 98291-0085  
360-568-6044  
marshlandfloodcontrol@gmail.com

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 **CCF\_000323.pdf**  
4891K



Marshland Flood Control <marshlandfloodcontrol@gmail.co



**(no subject)**

1 message

**Marshland Flood Control** <marshlandfloodcontrol@gmail.com>

Thu, Oct 17, 2019 at 11:09  
AM

To: JVMirante@pacificridgehomes.com

Cc: matt@cphconsultants.com, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, kolouskova@jmmlaw.com

Bcc: Don Bailey <donbailey54@gmail.com>, marv.t@topsoilsw.com, timgs57@hotmail.com

Mr. Mirante:

Please send the Drainage Facility Maintenance Covenant to me in WORD format so that the Commissioners and I can make suggestions for changes. The ideas in it are good but they can be improved with some modest changes. I could send those back to you in "tracking" so that they will be easily seen and could be easily discussed.

Gary W. Brandstetter  
Secretary/Manager and Legal Counsel  
**Marshland Flood Control District**  
P.O. Box 85  
Snohomish WA 98291-0085  
360-568-6044  
marshlandfloodcontrol@gmail.com

M

**M** Gmail

Marshland Flood Control <marshlandfloodcontrol@gmail.com>

(no subject)

John Vincent Mirante <JVMirante@drhorton.com>

Fri, Oct 18, 2019 at 7:29 AM

To: Marshland Flood Control <marshlandfloodcontrol@gmail.com>

Cc: "matt@cphconsultants.com" <matt@cphconsultants.com>, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, "kolouskova@jmmlaw.com" <kolouskova@jmmlaw.com>

Mr. Brandstetter, I do not have this document in a pristine word format as it is only available via a PDF. I cut and paste it in the previous email, and it may not be in its "pristine" format.

Also, this Covenant, is a "standard" one that has been prepared by the County, and may not easily be revised. Any revisions will need to be vetted by the PA I suspect.

I have re-cut and paste into the attached Word document, but cannot vouch for it's carrying all formats through properly.

Let me know if there is anything further I can do to assist. Thank you.



**JOHN MIRANTE**

**Entitlement Manager of Land Development**

**Pacific Ridge Homes | A D.R. Horton Company**

17921 Bothell-Everett Hwy., Suite 100, Bothell, WA 98012

o: 425-939-1186 m: 206-619-4009

**America's #1 Home Builder Since 2002 | pacificridgehomes.com**

[Quoted text hidden]

 **DRAINAGE FACILITY MAINTENANCE COVENANT.docx**  
14K





Marshland Flood Control <marshlandfloodcontrol@gmail.com>

N

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## Marshland; Remington Ranch

1 message

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**Marshland Flood Control** <marshlandfloodcontrol@gmail.com>

Fri, Oct 25, 2019 at 2:27 PM

To: JVMirante@pacificridgehomes.com, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, matt@cphconsultants.com, kolouskova@jmmmlaw.com

Bcc: Don Bailey <donbailey54@gmail.com>, marv.t@topsoilsw.com, timg57@hotmail.com

Mr. Mirante et al:

Sorry for the delay in getting back to you. This is budget season and I am always busy trying to eliminate costs and coming up with possible scenarios for how much to assess members of the District.

I will try to get my suggestions on the County form, but that may not happen until after the Commissioners' November 11 meeting. I will be out of state 10/29 - 11/6 for a grandson's baptism in Minnesota.

In the meantime, please let me know about Marshland's covenant so I can advise the Commissioners of your position at their November 11 meeting.

Gary W. Brandstetter  
Secretary/Manager and Legal Counsel

**Marshland Flood Control District**

P.O. Box 85  
Snohomish WA 98291-0085  
360-568-6044  
marshlandfloodcontrol@gmail.com



Marshland Flood Control <marshlandfloodcontrol@gmail.com>

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## Marshland; Drainage Facility Maintenance Covenant re Remington Ranch and Brasswood

1 message

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Marshland Flood Control <marshlandfloodcontrol@gmail.com>

Fri, Dec 20, 2019 at 4:36 PM

To: "Kasting, Justin" <Justin.Kasting@co.snohomish.wa.us>, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>, JVMirante@pacificridgehomes.com, matt@cphconsultants.com, kolouskova@jmmlaw.com, arong@connerhomes.com, jnm@dealinc.com

Justin et al:

The County form needs some revisions and so I am sending this to you as well as County personnel and developers and consultants for Remington Ranch and Brasswood. I will be unavailable 12/21 - 12/30 so will contact you in January.

Gary  
Gary W. Brandstetter  
Secretary/Manager and Legal Counsel  
**Marshland Flood Control District**  
P.O. Box 85  
Snohomish WA 98291-0085  
360-568-6044  
marshlandfloodcontrol@gmail.com

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 MFCG GWB 122019 edits to Mirante DRAINAGE FACILITY MAINTENANCE COVENANT (1).docx  
30K

P1

**Samy, Rebecca** <Rebecca.Samy@co.snohomish.wa.us>  
To: Marshland Flood Control <marshlandfloodcontrol@gmail.com>

Tue, Dec 24, 2019 at 7:16 AM

Hello Gary,

Thank you for sending this in. If possible could you let me know who in the county you sent this to? Both Brasswood and Remington were heard before the Hearing Examiner in December and are pending a decision from the HE's office.

Sincerely,

**Rebecca Samy** | *Senior Planner, CFM*

Snohomish County Planning and Development Services

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**Marshland Flood Control** <marshlandfloodcontrol@gmail.com>

Thu, Dec 26, 2019 at 7:54 AM

To: "Kasting, Justin" <Justin.Kasting@co.snohomish.wa.us>, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>

Rebecca:

First, I sent the covenant to you, Justin Kasting and attorneys and consultants for and the developers.

Second, Marshland wrote letters to you specifically requesting Party of Record status. Why then did Marshland get absolutely no notice of any proceedings before the Hearing Examiner — especially when the County acknowledged it was late giving notice to Marshland of both the Remington Ranch and Brasswood developments?

Third, I expect you to make sure Marshland gets notice of the Hearing Examiner decisions so that it can appeal them for County failure to give notice to a Party of Record.

Fourth, I'll return to Washington late on the 30th and will contact you on the 31st for an update.

**Gary Brandstetter**

[Quoted text hidden]

P2

Samy, Rebecca <Rebecca.Samy@co.snohomish.wa.us>

Thu, Dec 26, 2019 at 8:

AM

To: Marshland Flood Control <marshlandfloodcontrol@gmail.com>, "Kasting, Justin" <Justin.Kasting@co.snohomish.wa.us>

Hello Gary,

Thank you for letting me know who you provided the suggested language to at the county besides myself. I reconfirmed that notice, in the form of a post card notice, was sent to Marshland Flood Control District at 1024 First St, Marks Bldg, STE 103, Snohomish, WA. If that is not the district's correct mailing address, please provide an updated and correct address. Please note that projects are also posted at the project sites as well as in the paper. The county does its best to ensure that notice of projects and proceedings are done correctly.

[Quoted text hidden]

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Marshland Flood Control <marshlandfloodcontrol@gmail.com>

Thu, Dec 26, 2019 at 9:01

AM

To: "Kasting, Justin" <Justin.Kasting@co.snohomish.wa.us>, "Samy, Rebecca" <Rebecca.Samy@co.snohomish.wa.us>

Rebecca:

The address you list is that of my old office — which I closed December 31, 2012. Furthermore, both letters requesting Party of Record status were written on Marshland letterhead with a PO Box 85, Snohomish WA 98291-0085 address.